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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
HARRIS, CHANDA L	
ART UNIT	**PAPER NUMBER**
3715	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/941,251	BANERJEE ET AL.	
	Examiner	Art Unit	
	Chanda L. Harris	3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8 and 11-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 11-51* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

In response to the Amendment filed 6/2/05, Claims 1-8 and 11-51 are pending. Claims 9 and 10 are cancelled.

Claim Objections

Claim 6 is objected to because of the following informalities: Line 11 – "receive and" should be -- receive an --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 23, 24, 28, 47, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Papadopoulos (US 6,099,320).

1. [Claims 1,23,28,47]: Regarding Claims 1,23, 28, and 47, Papadopoulos discloses a bus system; a communication unit connected to the bus system, a storage device connected to the bus system. See FIG. 15. Papadopoulos discloses identifying presentation of the test questions on the data processing system. See Col.6: 6-12. Papadopoulos discloses responsive to the presentation of the test questions on the data processing system, monitoring test question timing data in which the test question

timing data represents an elapsed time since an answered question from the test questions has been presented, wherein the elapsed time is an amount of time in attempting to answer a test question: "After a question is posed, both an analog and a digital timer are displayed, showing the time remaining for answering the question ..." (Col.6: 15-17). Papadopoulos discloses generating an alert (i.e., changing from yellow to red) after the test question timing data exceeds a threshold (i.e., expires), wherein the alert apprises a test taker that the elapsed time is excessive for the test question. See Col.6: 15-22.

2. [Claims 2,24,48]: Regarding Claims 2,24, and 48, Papadopoulos discloses wherein the monitoring step is performed by a proctor device or a program on the data processing system (analog and digital timer). See Col.6: 15-24.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 6, 8, 11, 12, 14, 15-21, 25-26, 29, 31-35, 37-44, 46, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos in view of Sugimito (US 6,755,661).

1. [Claims 3,25]: Regarding Claims 3 and 25, Papadopoulos does not disclose

expressly wherein said generating step is performed by an applet. However, Sugimoto teaches such in Col.10: 3-13. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate an applet into the method and system of Papadopoulos, in light of the teaching of Sugimoto, in order to enable using a short application program for performing a simple specific task.

2. [Claims 6,29,32-33,46,51]: Regarding Claims 6, 29, 32-33, 46, and 51, Papadopoulos discloses receiving test question timing data from the client device, the test question timing data representing an elapsed time used by the user in attempting to answer a test question from a plurality of test questions that are to be provided to the client device during administration of the test. See Col: 6: 15-18. Papadopoulos discloses wherein the user can send an instant message (i.e., an incorrect answer on a test) to and receive an instant message from (i.e., The screen re-displays the page at which the information required to answer the question is introduced) said proctor device. See Col.6: 28-32.

Papadopoulos does not disclose administering a test to a remotely located user of a client device (i.e., via the network to the user terminal). However, Sugimoto teaches such in Col.9: 43-48. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate administering a test to a remotely located user of a client device into the method and system of Papadopoulos, in light of the teaching of Sugimoto, in order to provide global access to the test.

3. [Claims 8,26,31]: Regarding Claims 8,26, and 31, Papadopoulos/Sugimoto does not

disclose expressly billing the remotely located user for administration of the test. However, such is old and well known in the art (e.g., computerized SAT, Greening, etc.). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate billing a remotely located user for administration of a test into the method and system of Papadopoulos/Sugimoto in order to collect payment for providing testing services.

4. [Claims 11,34]: Regarding Claims 11 and 34, Papadopoulos discloses alerting (i.e., changing to red) the remotely located user when the test question timing data exceeds a predetermined threshold (i.e., time limit). See Col.6: 13-18.

5. [Claim 12,35]: Regarding Claims 12 and 35, Papadopoulos does not disclose expressly storing a score for the test in a permanent storage (i.e., test history database). However, Sugimoto teaches such in Col.7: 1-3, 22. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate into Papadopoulos storing a score for the test in a permanent storage, in light of the teaching of Sugimoto, in order to have a record of the score.

6. [Claims 14,37]: Regarding Claims 14 and 37, Papadopoulos does not disclose expressly receiving a request for administration of the test to the remotely located user and establishing a session identification (e.g., a test time) for the administration of the test to the remotely located user; and correlating the test question timing data to the administration of the test to the remotely located user based on the session identification. However, Sugimoto teaches such in Col.8: 63-Col.10: 23. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to

incorporate the aforementioned limitations into the method and system of Papadopoulos, in light of the teaching of Sugimoto, to enable administering and monitoring a test over a network.

7. [Claims 15,38]: Regarding Claims 15 and 38, Papadopoulos does not disclose expressly wherein the session identification includes a proctor device identifier, and wherein outputting the test question timing data to the proctor device is based on the proctor device identifier. However, this feature would have been an obvious feature of Sugimoto's invention as there has to be some way to identify where the timing information is to be recorded/analyzed/processed. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Papadopoulos, in light of the teaching of Sugimoto, to enable monitoring a test over a network.

8. [Claims 16,39]: Regarding Claims 16 and 39, Papadopoulos does not disclose expressly storing an identification of a number of test takers for the test takers for the test and billing a client based on the number of test takers for the test. However, the concept of billing a client based on the quantity of a product or services provided to the client is an old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing an identification of a number of test takers and billing a client based on the number of test takers into the method and system of Papadopoulos in order to enable a supplier to receive payment for services/products provided to the client.

9. [Claims 17,40]: Regarding Claims 17 and 40, Papadopoulos discloses monitoring

the test question timing data for evidence of greater than expected response time to the test question, wherein outputting the test question timing data to a proctor device is performed in response to determining that evidence of greater than expected response time to the test question is present(i.e., change from yellow to red as the time expires). See Col.6: 15-18.

10. [Claims 18,41]: Regarding Claims 18 and 41, Papadopoulos discloses wherein monitoring the test question timing data for evidence of greater than expected response time to the test question includes comparing previously received test question timing data to currently received test question timing data to determine if a change in the test question timing data indicates evidence of greater than expected response time to the test question (e.g., If the student does not pass the test within the allowed time, the screen containing the material that is being reviewed is redisplayed ...). See Col.6: 18-22.

11. [Claims 19,42]: Regarding Claims 19 and 42, Papadopoulos discloses generating an alert profile for the user for a particular test based on at least one of a data profile associated with the remotely located user, an examination question timing database, and a degree of difficulty (i.e., level) associated with a question on the test. See Col.6: 14-22 and 49-50.

12. [Claims 20, 43]: Regarding Claims 20 and 43, Papadopoulos discloses transmitting an alert (e.g., changing from green to yellow to red as the time expires) to the remotely located user based on the generated alert profile (i.e., time limit). See Col.6: 14-18.

13. [Claims 21, 44]: Regarding Claims 21 and 44, Papadopoulos does not disclose

expressly storing a response from the remotely located user to update the alert profile for use in future tests (e.g., If the student does not pass the test within the allowed time, the screen containing the material that is being reviewed is redisplayed and the student has another opportunity to learn the information). See Col.6: 18-22.

Claims 4, 26, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos in view of Walker (US 6,093,026).

[Claims 4,26,49]: Regarding Claims 4, 26, and 49, Papadopoulos does not disclose expressly billing a client for monitoring the presentation of test questions (i.e., billing information). However, the concept of billing a client for providing a service is old and well known in the art. Walker teaches this concept in Col.4: 30-40. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate into the method and system of Papadopoulos billing a client for monitoring the presentation of test questions, in light of the teaching of Walker, in order to charge the client for tests conducted on its behalf. A recitation such as " for monitoring the presentation of the test questions" is directed to the manner in which a claimed method/apparatus is intended to be used and does not distinguish the claimed method/apparatus from the prior art if the prior art has the capability to so perform. See MPEP 2114 and *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claims 5, 27, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos.

[Claims 5,27,50]: Regarding Claims 5, 27, and 50, Papadopoulos does not disclose expressly storing an identification of a number of test takers for the test takers for the test and billing a client based on the number of test takers for the test. However, the concept of billing a client based on the quantity of a product or services provided to the client is an old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing an identification of a number of test takers and billing a client based on the number of test takers into the method and system of Papadopoulos in order to enable a supplier to receive payment for services/products provided to the client.

Claims 7, 13, 30, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos/Sugimoto as applied to claims 6 and 29 above, and further in view of Walker.

1. [Claims 7,30]: Regarding Claims 7, and 30 Papadopoulos/Sugimoto does not disclose expressly billing a test developer (i.e., client) for administration of the test to the remotely located user. However, Walker teaches such in the Abstract and in Col.4: 33-39. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate billing a test developer for administration of the test to the remotely located user into the method and system of Papadopoulos/Sugimoto, in

light of the teaching of Walker, in order to charge the client for tests conducted on its behalf.

2. [Claims 13,36]: Regarding Claims 13 and 36, Papadopoulos/Sugimoto does not disclose expressly wherein the test is developed by a test developer and wherein the method is implemented by a test administration system that is operated by a different entity from the test developer. However, Walker teaches such in Col.4: 33-47. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Papadopoulos/Sugimoto, in light of the teaching of Walker, in order to enable a test administration system to conduct test on the test developer's behalf.

Claims 22 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos/Sugimoto as applied to claims 6 and 29 above, and further in view of Hansel.

[Claims 22, 45]: Regarding Claims 22 and 45, Papadopoulos/Sugimoto discloses storing of the timing data for the test question to update timing data for the user for use in future tests. However, Hansel teaches such in Col.2: 69-Col.3: 5: " ... but if the correct answer is given but not within the predetermined time the machine displays a signal indicating that the operator has taken too long to answer the question." Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system

of Papadopoulos/Sugimoto, in light of the teaching of Hansel, in order to encourage a user to answer a question correctly within a predetermined time.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See rejection above. This action is made NON-FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chanda L. Harris
Primary Examiner
Art Unit 3715